



**STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS**

Draft

Date Introduced:	03/21/02	Bill No:	AB 3052
Tax:	Sales and Use	Author:	Pescetti
Board Position:		Related Bills:	

BILL SUMMARY

This bill would provide a sales and use tax exemption for sales and purchases of energy efficient residential and commercial refrigerators and clothes washers, as specified.

ANALYSIS

Current Law

Under existing law, the sales or use tax applies to the sale or use of tangible personal property in this state, unless otherwise exempted or excluded by statute. Under current law, the sales and use tax applies to sales and purchases of appliances to the same extent as it applies to any other sale of tangible personal property that is not otherwise exempted or excluded from tax by statute.

Proposed Law

This bill would add Section 6356.4 to the Sales and Use Tax Law to provide a sales and use tax exemption for sales and purchases of energy efficient residential and commercial refrigerators and clothes washers. The bill would define "energy efficient" as appliances that meet or exceed the applicable ENERGY STAR efficiency requirements developed by the United States Environmental Protection Agency and the United States Department of Energy. The exemption would be in effect until January 1, 2005.

The bill would state that it is the intent of the Legislature to, among other things, encourage and increase incentives for replacing and recycling inefficient refrigerators, room air-conditioners, clothes washers, and dishwashers with energy efficient appliances, thereby lowering the demand for energy in California.

The bill would also require the Board of Equalization and the State Energy Resources Conservation and Development Commission to prescribe regulations for the implementation of the proposed exemption.

The bill would become operative on the first day of the calendar quarter commencing more than 60 days after the bill becomes effective.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

In General

With the signing of the Electric Industry Deregulation Law, Assembly Bill 1890 (Brulte, et al., Ch. 854, Stats. 1996), the California Energy Commission was authorized to oversee funding programs that support public interest energy research, advance energy science and technology through research, development and demonstration, and provide support to existing new and emerging renewable technologies. AB 1890 also authorized the Energy Commission, between 1998 and 2002, to collect \$540 million from the ratepayers of existing investor-owned utilities to support existing, new and emerging renewable technologies.

AB 1890 directed the Energy Commission to submit a report to the Legislature outlining allocation and distribution recommendations for such renewable funds. This report, as adopted by the Legislature, became Senate Bill 90 (Sher, Ch. 905, Stats. 1997), which provides the administrative guidelines for the Renewable Energy Program. SB 90 authorized the Energy Commission to administer funds collected from the state's investor-owned utilities to support renewable energy technologies.

SB 90 also implemented the report's recommendations and created a Renewable Resource Trust Fund containing four accounts: the Existing Renewable Resources Account, the New Renewable Resources Account, the Emerging Renewable Resources Account ("Buy-Down Program"), and the Customer-Side Renewable Resources Purchases Account.

The "Buy-Down Program" offers cash rebates on eligible renewable energy electric-generating systems, such as small wind turbines, fuel cells, solar photovoltaics and other solar thermal electricity systems. The rebate funds are distributed from the "Emerging Renewable Resources Account" and offers \$4,500 per kilowatt, or 50 percent off the system purchase price (whichever is less). All types of electricity customers are eligible to apply, including: residential, commercial, agricultural, and industrial.

Assembly Bills 970 (Ducheny, Ch. 329, Stats. 2000) and 29X (Reyes, Ch. 8, Stats. 2001) and Senate Bill 5X (Sher, Ch. 7, Stats. 2001), were passed in response to reducing peak electricity consumption which was straining the adequacy and reliability of California's electricity system. These bills provide funding to the Energy Commission and other state agencies for grants and rebates to reduce electricity peak load demand. AB 970 also directs the Energy Commission to update the standards of energy efficiency appliances.

The Energy Efficiency and Demand Reduction Programs provide a wide range of rebates offered by utilities and state agencies to help consumers reduce their electricity use. Refrigerator and Washer/Dryer Rebate Programs are offered by certain utilities and provide cash rebates ranging from \$25 to \$125 on purchases of energy efficient refrigerators and washers/dryers.

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To meet the Energy Commission's ongoing responsibilities to evaluate California's electricity system issues, the Commission prepared the 2002-2012 Electricity Outlook Report. This report was adopted by the Energy Commission on February 6, 2002, at its regularly scheduled business meeting. The purpose of this report is to provide the Governor and Legislature an assessment of the state's electricity system over the next ten years and information on issues impacting state electricity issues. This report also provides analyses that will help identify the choices and constraints, alternatives, implications and proposed actions that will further the goal of balancing electricity system reliability, reasonable prices, and environmental protection.

Background

Several bills were introduced in the 2001 session in response to California's energy crisis, but failed to pass. These bills included the following:

AB 695 (Pescetti) – This bill would have added a sales and use tax exemption for sales and purchases of energy efficient residential and commercial refrigerators, room air-conditioners, clothes washers, and dishwashers. This bill failed to pass through the Assembly Appropriations Committee. The Board's position was neutral.

AB 124X (Pescetti) – This bill was similar to AB 695. This bill would have added a sales and use tax exemption for sales and purchases of residential and commercial appliances that are energy efficient. This bill was never heard in a committee. The Board voted to support this bill.

AB 52XX (Reyes) – This bill was similar to AB 695. This bill would have added a sales and use tax exemption for sales and purchases of energy efficient appliances and florescent lightbulbs. This bill failed to pass the Assembly Appropriations Committee. The Board voted to support this bill.

AB 27X (Koretz) and SB 71X (Perata) - These bills would have, among other things, provided a sales and use tax exemption for purchases of power generating equipment, and, as an alternative, provide an income tax credit for costs incurred for the purchase and installation of a power generation system. These bills were held in the Assembly Appropriations Committee. The Board voted to support these bills.

AB 51X (Daucher) - This bill would have added an exemption for generators installed under a qualified interruptible service contract of 3 years or more in duration. This bill was never heard in a committee.

AB 58X (Cox) and AB 1319 (Cox) - These bills would both provide a state tax exemption for any solar energy system designed to provide thermal energy for the purpose of heating water or providing electrical power, as specified. AB 58X was held in the Energy Costs and Availability Committee. AB 1319 died in the Assembly Revenue and Taxation Committee. The Board voted to support both of these bills.

SB 1074 (Soto) - This bill would have, until January 1, 2003, exempted from sales and use tax sales and purchases of microturbines, fuel cells, photovoltaic cells, solar thermal water heating systems, wind energy equipment, and electrical generators operating on renewable biomass fuel. This bill died in Senate Revenue and Taxation Committee. The Board's position was neutral.

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SB 877 (Poochigian) - This bill would have exempted purchases of qualified cogeneration equipment, as defined, for use on dairy farms, and would also have authorized an income tax credit for an amount equal to the portion of property taxes attributable to those fixtures and improvements to a dairy farm utilized in the cogeneration or transformation of dairy industry by-products into fuel sources used for the operation of that dairy farm. This bill died in the Senate Revenue and Taxation Committee. The Board voted to support this bill.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the author and is intended to provide an incentive to purchase energy efficient appliances in response to statewide efforts to conserve energy.
2. **The proposed statute does not appear to be ambiguous and may not require a regulation.** Under Section 7051 of the Sales and Use Tax Law, the Board is already authorized to prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of that law. The Board prescribes regulations when it determines that a regulation is reasonably necessary to effectuate the purpose of the statute. Since a regulation may not be necessary for the proposed exemption, it is recommended that this mandate be stricken from the bill. If the Board determines that a regulation is necessary, it may prescribe one under the authority of existing law.

COST ESTIMATE

Some costs would be incurred in notifying affected retailers and verifying claimed exemptions. These costs are expected to be absorbable.

REVENUE ESTIMATE

Background, Methodology, and Assumptions

Residential & Commercial Appliances

Energy Star was introduced by the US Environmental Protection Agency in 1992 as a voluntary labeling program designed to identify and promote energy-efficient products, in order to reduce carbon dioxide emissions. The four major appliances that are part of this program are clothes washers, refrigerators, dishwashers and room air conditioners. Statistics used for the analysis were provided by D & R International and the Association of Home Appliance Manufacturers (AHAM). D & R is a strategic planning and marketing firm that produces market based solutions to energy problems. AHAM is a non-profit trade association of home appliance manufacturing companies.

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Refrigerators

Total California Energy Star refrigerator sales (units) in 2002 are estimated to be 128,125. The average price per refrigerator is \$1,024. Total estimated sales in 2002 are estimated to be \$131.2 million ($\$1,024 \times 128,125 \text{ units} = \131.2 million).

Clothes Washers

Total California Energy Star clothes washer sales (units) in 2002 are estimated to be 128,301. The average price per clothes washer is \$600. Total estimated sales in 2002 are estimated to be \$76.9 million ($\$600 \times 128,301 \text{ units} = \77.0 million).

Total Expenditures

Total estimated expenditures for 2002 are as follows:

<u>Type</u>	<u>Expenditures (in millions)</u>
Refrigerators	\$ 131.2
Clothes Washers	<u>77.0</u>
Total	<u>\$ 208.2</u>

Revenue Summary

The revenue impact from exempting residential and commercial appliances (refrigerators & appliances) from the sales and use tax would be as follows:

	<u>Revenue Loss (in millions) 2002</u>
State (5.00%)	\$ 10.4
Local (2.25%)	4.7
Special District (0.67%)	<u>1.4</u>
Total	<u>\$ 16.5</u>

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